

| |
|---|
| USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 09/17/2020 |
|---|

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

| | | |
|--|---|------------------|
| -----X | | |
| DOMINICK DIMETRO, | : | |
| | : | |
| Appellant, | : | 19-CV-2162 (NSR) |
| -against- | : | |
| | : | ORDER |
| KRISTA PREUSS, | : | |
| | : | |
| Appellee. | : | |
| -----X | | |
| NELSON S. ROMÁN, United States District Judge: | | |

Appellant Dominick DiMetro filed this appeal arising from a bankruptcy proceeding in the United States Bankruptcy Court for the Southern District of New York on March 8, 2019. (ECF No. 1.) The initial deadline for Appellant to file his opening brief was April 8, 2019. (ECF No. 3.) Appellant has not filed an opening brief. On August 24, 2020, the Court issued an Order to Show cause directing Appellant to show cause by September 14, 2020, why this appeal should not be dismissed pursuant to Fed. R. Bankr. P. 8018(a)(4) due to Appellant's failure to timely file a brief. (ECF No. 6.)

Where, as here, "an appellant fails to timely file a brief, a district court may dismiss the appeal upon a motion made or *sua sponte* after notice is provided." *Satti v. Nechadim Corp.*, No. 17-CV-00683 (MKB), 2018 WL 1010206, at *3 (E.D.N.Y. Feb. 16, 2018) (citing Fed. R. Bankr. P. 8018(a)(4)). By letter dated August 26, 2020, current counsel for Appellant advised the Court that Appellant consents to dismissal of his appeal. (ECF No. 7.) The Court has received no other response to its Order to Show Cause.

Accordingly, this appeal is dismissed without prejudice pursuant to Fed. R. Bankr. P. 8018(a)(4).

Dated: September 17, 2020
White Plains, New York

SO ORDERED:

A handwritten signature in blue ink, appearing to read 'N. Román', with a long horizontal flourish extending to the right.

NELSON S. ROMÁN
United States District Judge